

Rapid Progress Made in Work of Securing Trial Jury

FIRST COURT DAY ENDS WITH TWELVE MEN ON JURY LIST

(Continued From First Page.)

placitly stated, the court refused to accede. The matter was fully considered. Lists of witnesses for both sides were made public, great interest being taken in the twenty-nine names presented by the defense. From this side, however, came no other indication of the course contemplated. Spikes-like silence still shrouded every movement. On the side of the prosecution there was less disposition to conceal the plan of attack, but even here there were only smiling denials for many eager questioners. Early in the session the Commonwealth caused a stir by charging an amateur detective with attempted intimidation of an important witness, but the charge was not promptly followed up, as had been expected. It may be pressed later. The defense clearly indicated its intention to fight every doubtful point and to strew exceptions liberally through the record. Here is being laid ground for an appeal, if necessary, on its side, taking no chances. If there is a loophole anywhere, its existence or its failure of detection will be the fault of no lack of vigilance in any quarter. The Commonwealth is straining every effort to prevent the slipping of a cog, and counsel for the prisoner are ready to take advantage of every false move. Over it all presides the court, watchful and alert.

New Venue To-Morrow.
When the session is reconvened to-morrow thirty more Chesterfield men, gathered in from the byways and he hedges by the sheriff and his redoubtable deputy, will answer on their voir dire, and the afternoon of this day will in all likelihood see the panel complete. Then four names will be stricken off by the defense without assignment of cause, and thereafter, without having once gone beyond the county limits, the court will be ready for the testimony. Witnesses for the prosecution have been cited to appear on Thursday and for the defense on Saturday. The trial may be ended next week.

In the meantime, Henry Beattie is again in his Henrico cell in order to be near his counsel. If he is lodged in the Chesterfield jail at all it will not be until after Thursday. With him are his accusing cousin Paul and the Bliford woman. Neither of these appeared at the courthouse yesterday.

The First Day in Court.
Early morning found the court green dotted with people, and a steady stream of tolling horses dragged loaded carts and buggies through the Chesterfield sand, bars guarding every approach to the scene of the trial. Long before the expected arrival of the principals, crowds had gathered seeking vantage ground, and the courthouse capacity was more than trebly represented by prospective spectators before a single court officer had put in an appearance or the army of newspaper writers had secured their seats. Knots of people stood scattered about beneath the great oaks shading the lawn, and an evident air of expectancy gave more

to maintain some sort of passageway along the obstructed aisles. Through the crowd on one side Hill Carter, of counsel for the defense, slowly pushed his way, and H. M. Smith, Jr., his associate, soon followed along the other end of the building. Both Mr. Smith and Mr. Carter shook hands with the prisoner, and then got down to work. Upon an inquiry from the court, Mr. Wendenburg, of counsel for the State, asked an immediate arraignment of the accused. Mr. Carter was on his feet at once.

"Experience has justified our fears, expressed a week ago, that we could not be ready for trial to-day," he said. "We feel constrained to ask Your Honor to continue this case, not to a new term, but until next Monday, making two weeks, as we originally asked."

The issue which had been the subject of a week's discussion and speculation was before the court at last. The court met it squarely. It went into a consideration of the question of the dates on which counsel for the prisoner had been engaged, the time they had been allowed in which to prepare for trial, and other points raised.

Decision Came Quickly.
The crowd awaited with bated breath, finally the decision came. The court did not feel that the causes for delay cited were adequate to justify it in making it likely that the approaching term in Nottingham could not be held. It wished to make every reasonable concession to the defense, but it felt constrained to proceed on. The trial must begin at once. The crowd heaved a sigh of relief and settled down for a day in court. The judge noted an exception from the defense.

The arraignment followed, and the prisoner's plea of not guilty was duly entered, a motion to quash the indictment being denied. Provision was made to furnish a list of Commonwealth witnesses to the prisoner's counsel.

Mr. Wendenburg incidentally calling attention to the alleged effort of an amateur detective named Kidd to intimidate one John Joseph, said to be an important figure in the coming testimony.

Replying to Mr. Wendenburg's admission that counsel for the defense had nothing to do with this alleged attempt at intimidation, Mr. Smith shortly declared that he not only had nothing to do with it but did not believe it. Mr. Wendenburg asserted that he would submit affidavits at the proper time and have the detective cited for contempt.

Selection of Jury.
With extreme care, showing a determination to take absolutely no chances likely to offer ground for future successful exceptions, the court entered upon an exhaustive and scrupulous examination of the veniremen. N. E. Farley, a resident of the county, a few miles from Petersburg, was the first called, and for nearly ten minutes he stood in the box answering clearly the questions put. The crowd hung closely upon his words. Great doubt had been expressed as to the likelihood of speedily obtaining a jury, and while many looked for an early termination of this end of the case, others were inclined to believe that several days would elapse before the court could find sixteen unbiased minds. Farley represented the first step in this direction, and hence he was brought prominently and instantly

BEATTIE UNDER GREAT STRAIN AS HE COMES BACK TO COUNTY JAIL

Ate Hearty Supper, However, After Motor Car Ride From Chesterfield.

WILL BE MOVED TO-MORROW

Crowds on Court Lawn Watch Prisoner as He Sits With Father.

At the request of Harry M. Smith, Jr., of counsel for the defense, Judge Watson readily assented, at the end of the day's proceedings, to have Henry C. Beattie, Jr., returned to the Henrico county jail, where he has been in custody since his arrest.

"You are an officer of the law, aren't you?" Mr. Smith inquired of L. L. Scherer, who has had as much to do in finding and formulating the evidence for the Commonwealth.

"Yes," replied the detective, with a smile. "Well, I'll place Henry Beattie in your possession, and you will see that he is returned to the Henrico county jail."

With Mr. Scherer and County Officer Jarrell, Henry Beattie was brought back in a motor car driven by S. L. Guggenheimer. The run was made without incident or stop, and arrival at the jail was at 6:55 o'clock.

Ate Hearty Supper.
Though he was in good spirits, Beattie seemed, it was said, to be laboring under a strain when he entered the steel doors of the jail. But he was provided with a good supper, of which he partook heartily and with apparent enjoyment. Paul Beattie and Beulah Bliford, both leading witnesses for the Commonwealth, fared as well.

Court will convene again at noon to-morrow, and thereafter Henry Beattie will be kept in the Chesterfield county jail, which has been especially fitted up for him and the two principal witnesses. How Beattie will like the change has not been said. But he has probably not been consulted and has had no chance or opportunity to voice opinion either. Except as to location, it will mean little change to him, for four prison walls are not much different from four other prison walls, and he will receive the same comforts and the same attention which have been accorded him in the Henrico jail.

Prisoner and guard were the last to arrive at the Chesterfield Courthouse. Soon after dawn newspaper men began to arrive, and they were followed by the court habitues of the county, who came to the ancient seat of justice afoot, on horseback or in some sort of vehicle. There were the old-fashioned conveyances, the more modern conveyances and automobiles. Every place in the long line of shed stalls which skirted the courthouse on the west was filled. Feed was brought for the animals, and the people did not forget their own stomachs. Both man



Henry Beattie, Jr., at Chesterfield Courthouse yesterday. (Copyright, 1911, by W. W. Foster.)

and beast fared as if it were a picnic day. On the courthouse green and around the outer fence men and women sat them down before their lunch baskets, while Henry Beattie and his gray-haired father ate their midday meal together and alone in the witness room on the right. The curious passed to and fro before the window facing to the north and peered in. But it em-barrassed father and son not a whit. The father was too engrossed in the boy to notice what was going on outside. The boy was too busy listening to the occasional words spoken by his parent and in eating his lunch to be disturbed by the glances of the curious. It was as if they were alone in an empty world.

Many a family feasted on watermelons. All were well provided. It was not as if there were a matter of life and death to be considered. It was as though the people had come together for some great occasion, which was to be duly celebrated. There were many women present, though only newspaper women passed within the doors of the courthouse. It was not that entrance would have been denied them. It was because there were too many men, and in this case, where room was so cramped and where there were so many men, the little niceties were forgotten. The courthouse was filled. As many others watched through the windows.

Prisoner Arrives at Court.
It was close upon the hour of 10 when a car, driven by John Alsop, arrived with the prisoner. The car contained also Luther L. Scherer, Sheriff

court, whether these veniremen were either accepted or rejected. It was subsequently ascertained, after an inspection of authorities, that the law as it stands to-day does not require registration, but does specify as a qualification for jury service residence in the county for one year prior to the date of summons. The three went out under this provision.

Seven Out of First Venire.
The six veniremen who had been produced finally seven jurors competent in the eyes of the court, and a second venire of twenty called at once added five more names to the list. By this

time the supper hour was drawing near, and the court adjourned until Wednesday at noon to give the sheriff ample time in which to gather in a new venire. Thirty men, from these the remaining four will almost certainly be secured. There is no reason now to doubt that witnesses will begin to appear promptly on Thursday morning. The jurors chosen yesterday were not held together, but were allowed to go to their homes. The court, however, solemnly warning them not to discuss the case with one another or with anybody else, or to read any newspaper references to the trial.

"Gentlemen," cried the sheriff, "you'll have to stand up," and he brushed his way back to see that his order was obeyed. There was a low laugh as he performed his duty and then looked to the judge for his approval.

"If necessary, see that the windows and doors are closed," he said.

"Yes, sir; yes, sir," interrupted the sheriff.

"Are not crowded," finished the judge. **Beattie Case Called.**

Judge Gregory, the Commonwealth's attorney, asked that some condemnation proceedings be filed, and this was done. Then Clerk Cogbill announced that the case to be called was that of the Commonwealth against one Henry C. Beattie, Jr., for a felony, with L. O. Wendenburg and Judge Gregory representing the Commonwealth, and Harry M. Smith, Jr., and Hill Carter representing the prisoner.

"We ask that the prisoner be arraigned," said Mr. Wendenburg, rising. Mr. Carter rose slowly to his feet. "We started a week ago to-day," he began, "when the indictment was first

found, in the absence of the accused, and we stated that we expected that we would not be ready at this time. Our expectations justified our fears. Mr. Smith has been engaged the whole time in endeavoring to prepare the case for this day. I have afforded only a little assistance. The burden must fall on one of two in counsel, but I have done what I could. We have not completed the work of getting our witnesses, and we ask, not for a continuance to another term of court, but a postponement until to-day week. We are prepared to make affidavits in support of our plea."

Judge Gregory arose to make reply, but was interrupted by the court, who said:

"Mr. Carter, have you gentlemen any objection to stating when the accused obtained counsel? Of course I can get this information from witnesses, but it will save time if you will say."

Time They Were Engaged.
"If Your Honor please," said Mr. Smith, who was the first to be employed. "I was contacted in this matter the night before the coroner's inquest. I was spoken to, but not engaged. I agreed to appear at the inquest, but there were no definite arrangements then. Definite arrangements were not made until the last Friday in July. I think I may be able to verify this statement by the fact that on the morning before pictures of Mr. Carter and myself appeared in The Times-Dispatch, when we had given them authority to state that Mr. Carter and myself were engaged in the case."

"What was the arrest made?" Mr. Smith went over the dates on his fingers, and replied: "On Friday, the 21st. We were employed on the following Friday."

"That was the first time I saw Beattie," said Mr. Carter, taking the strain up. "I talked to them, but arrangements were not completed, and I was not sure that they had been completed until I saw it in the paper."

Judge Gregory again tried to get a word in, but Judge Watson continued the questioning himself.

"I understand that you have not had processes served," he inquired.

"In one particular I can tell you," said Mr. Smith. "We have not been able to get all our evidence. It may be our own fault, but we have not had access to the automobile matter. We thought we would ask Your Honor to permit us to examine it. We would like to compare it with a machine of like model, a Buick of the 1909 model. We have tried to find a like machine, but have not been able to do so. We went to Foster's garage to get one, but were not able to secure one. We ask Your Honor to give us permission to have access to this machine for the purposes of defense. We were able only on Saturday to secure the names of two important witnesses. We spent two weeks trying to get them, but were not able to do so."

"Are they in the jurisdiction of the court?" asked Judge Watson. "Would you mind giving the names of the witnesses?"

"They are witnesses from the Virginia Railway and Power Company," answered Mr. Smith.

"Were they Pace and Whitmore?" asked Mr. Wendenburg.

"Yes, I believe so. The prosecution refused to give us the information about them, and we spent two weeks trying to find them."

"Are they all in the jurisdiction of the court?"

"Yes, I think so, except two, but we can get them for they readily agreed to come on telegraphic summons."

Statement by the Court.
"Well, now, gentlemen," said the court, "it passes without saying that where the life of a human being is at stake it would be a gratification to the court to receive any reasonable request as to fixing the time for trial. Since the matter was tentatively agreed upon a week ago, it would seem that the court is now justified in having the case come to trial at this time. The exigencies of you gentlemen hardly justify me to defer the case. If I accede to a postponement I will have to leave the court open for nine days, and I feel it would place the court within narrow confines to set the case for next week. I don't know how long it will take to get a jury. There are about fifteen open days left, and I feel very uncertain about the progress of the case if less of time be given it. I will indulge you in a reasonable length of time to summon your witnesses. Against my personal wishes I deem it necessary to begin the case to-day."

"I would suggest that we go ahead with procuring a jury and set the trial for to-day week," said Mr. Carter. "If we have the opportunity of a delay in getting the jury, it would not matter."

"If Your Honor please," began Mr. Gregory for the Commonwealth, "I owe a duty to the prisoner and a duty to the same time to the Commonwealth. The law of which Mr. Smith speaks should be filed before the court, and should contain the grounds for which continuance is asked. This is simply a verbal statement. I submit that the affidavits should be brought before the court now, and the Commonwealth ought to be able to inspect them, to see if they are within the purview of the law. We must know what their grounds are."

"There was no motion for a continuance. The defense asks only for a postponement," explained Judge Watson.

Can Get Them Quickly.
"For the purpose of getting the matter on record," broke in Mr. Wendenburg. "I think it proper to say that so far as the two witnesses, Pace and Whitmore, are concerned, that they are employees of the Virginia Railway and Power Company, and can be gotten in two hours. I did not see the young men until last Friday. I do not consider it the duty of the prosecution to tell the defense what its own witnesses say. So far as the automobile matter is concerned, the counsel for the accused had an opportunity at the coroner's inquest to examine the machine. It was there, and all who were interested could have looked at it. It is now in the possession of the coroner, and can be seen by any one accompanied by an officer. And we know that Mr. Smith appeared as counsel on July 21."

"I never had a statement questioned at the bar before," retorted Mr. Smith hotly.

"Did you understand it so?" inquired the court.

"And in what respect?" asked Mr. Wendenburg.

"I was not employed to represent this young man then, as I stated," replied Mr. Smith sharply. "I was only consulted."

"A distinction without a difference," was the rejoinder of Mr. Wendenburg. "Do you care to make affidavits?" asked the court, interrupting the argument.

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